

Petition for Instructions to Confirm Settlement Agreement and Authorize Administrator with the Will Annexed to Fulfill his Obligations Thereunder

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|--------------------|---------------|----------------------------------------------------------------------------|---------------------------------|
| DOD: 7-1-11 | | DENNIS A. MAXWELL , Administrator with Will Annexed, is Petitioner. | NEEDS/PROBLEMS/COMMENTS: |
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| | Aff.Sub.Wit. | | |
| ✓ | Verified | | |
| | Inventory | | |
| | PTC | | |
| | Not.Cred. | | |
| ✓ | Notice of Hrg | | |
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| | Conf. Screen | | |
| | Letters | | |
| | Duties/Supp | | |
| | Objections | | |
| | Video Receipt | | |
| | CI Report | | |
| | 9202 | | |
| ✓ | Order | | |
| | Aff. Posting | | |
| | Status Rpt | | |
| | UCC/JEA | | |
| | Citation | | |
| | FTB Notice | | |

Petitioner states: This petition seeks the Court's confirmation of the Settlement Agreement last dated 7-31-13 that has been entered into by Petitioner in his capacity as Administrator of the Estate and as trustee of the Marvin M. Coit Family Trust, Amy Coit, Mark Coit, Mitchell Coit, and Bruce De. Bickel, in his capacity as Guardian Ad Litem for Michael Coit (minor).

Background: Decedent was survived by six children: Marva Kritch, Kelley Coit Mauro, Amy Coit, Mark Coit, Mitchell Coit, and Michael Coit. At the time of his death, Decedent owned in excess of 1,000 acres of land, approx. 700 of which are planted with almonds and pistachios. Decedent was also the sole shareholder (holding title in the name of the 1981 Trust), director and officer of Marv Coit, Inc., a corporation that provides custom farming services to his farmland.

Petitioner is aware of numerous estate documents executed by the decedent. Lucia Kennedy, Michael's mother, has made allegations that there are other estate planning documents. No such documents have been located.

Petitioner states administration of the estate has been fraught with legal issues:

SEE ADDITIONAL PAGES

Note: If granted, the Court will set a status hearing for the filing of the petition for final distribution pursuant to the terms of the Settlement Agreement for:

- Friday 6-6-14

If filed prior to that date, the status hearing will come off calendar.

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| Reviewed by: skc |
| Reviewed on: 9-27-13 |
| Updates: |
| Recommendation: |
| File 1 – Coit |

Petitioner states administration of the estate has been fraught with legal issues:

- a) Prior to his death, Decedent was involved in litigation as he was sued by Lucy Knoeffler in 1CECG04227, which has been settled and dismissed as of 1-4-13.
- b) Subsequent to Decedent's death, Marva and Kelley claimed interests in Decedent's estate and trusts. Their claims were resolved by the settlement agreements approved per Court order on 2-27-13. The estate has fulfilled its obligations under such settlement agreements as evidenced by receipts signed by Marva and Kelley and filed 3-20-13 and 3-13-13 respectively.
- c) Also subsequent to Decedent's death, Lucia filed suit against the estate and against the Decedent's trusts in 12CECG02381 alleging that she is entitled to inherit a substantial share of the Decedent's assets by reason of an alleged oral contract ("Lucia's Claim"), which is currently set for trial 3-4-14.
- d) Petitioner, in his capacity as Trustee, has filed a Petition for Instructions with respect to the trusts established by the Decedent during his lifetime 12CEPR00873.
- e) Lucia was initially appointed guardian ad litem for Michael and in that capacity filed a petition for probate homestead and a petition for family allowance on Michael's behalf. Lucia was subsequently removed as GAL and Bruce D. Bickel succeeded her in that role. Agreement was reached concerning the probate homestead and an amount of interim family allowance. See order 11-5-12.

Petitioner states that on Feb 11 and 12, 2013, the parties engaged in an extended settlement conference in an effort to resolve all disputed issues. The settlement conference was largely successful in that the broad terms of a settlement were negotiated and agreed to by all but Lucia. The details have now been negotiated and the result is the **Settlement Agreement** that is the subject of this petition.

The Settlement Agreement allows this probate to be brought to a close, resolves all disputes among Decedent's children, clarifies the terms of the Decedent's trust, improves Michael's standard of living, all while preserving Lucia's right to pursue Lucia's Claims.

Because the Settlement Agreement also resolves issues involved in the trust litigation, a separate petition is filed concurrently in that action for an order approving the settlement.

Petitioner states Lucia was provided with an opportunity to participate in all negotiations of the terms thereof, but chose not to do so. Therefore, she is not a party to the Settlement Agreement.

Terms of Settlement:

SEE ADDITIONAL PAGES

Terms of Settlement:

- **Improving Michael's situation:** Family allowance increased from \$2,000 to \$3,000 per month until the probate is brought to a close, retroactive to March 2013. The mobile home where Michael currently resides with Lucia adjacent to one of the agricultural shops and equipment yards owned by the estate is in poor condition and is not worth repairing. The estate will replace the mobile home where Michael resides with a new one. While there will be some disruption to the living situation while the mobile home is replaced, the estate will pay for temporary lodging for Michael and Lucia and will pay to transport the contents of the home for storage. The parties to the Settlement Agreement recognized that Lucia may attempt to interfere or refuse to cooperate with the estate's efforts to replace the mobile home, and should this occur, the estate is to petition for appropriate orders in the estate, if it is open at the time, or in the trust litigation action, if the probate estate has been closed.
- **Protection of Farming Business:** Mechanisms are set forth to provide checks and balances to ensure the farming operation was run correctly and provide protections from the sale of interests in the family farm to third parties without first offering to family members, and to make it more difficult for any beneficiary to force the sale of the farm. These mechanisms are set forth in the Shareholder Agreement for Marv Coit, Inc., and in the Operating Agreement that will be used for a new LLC to be established to own and farm the Decedent's real property. The agreements will expire of their own terms upon the date that Michael is to receive ½ of his trust's interest in the family businesses (see below). At that time, all children will be at least 30 and can choose to remain in business together or not.
- **Trust Litigation:** The parties agreed that the Decedent intended that the 2005 Amendment amend and restate the 1981 Trust. Therefore, the estate is to be distributed to the trustee of the trustee of the **Marvin M. Coit Family Trust pursuant to the 2005 Amendment**. The parties also agreed that the ambiguities in the 2005 Amendment would be clarified by reforming same as follows:
New sections will be added to the 2005 Amendment that appoint trustees of sub-trusts and clarifies distribution and terms.
- **Preservation of rights:** As explained above, Lucia is not a party to the Settlement Agreement. Therefore, it has been structured to preserve her right to pursue Lucia's Claim. Trust principal, including the real estate that Lucia claims an interest to, will be held by Petitioner in his capacity as trustee. Trustee will be distributed to Decedent's children or trustees of the subtrusts established for their benefit, which will allow such beneficiaries to pay their respective income tax obligations. An additional distribution of \$100,000 will also be distributed. As to Michael, the purpose is to allow Bruce D. Bickel, as trustee of Michael's subtrust, to ensure that Michael's financial needs are met following the final distribution of the probate estate.

SEE ADDITIONAL PAGES

Page 4

Petitioner prays for an Order:

1. Approving the Settlement Agreement;
2. Instructing Petitioner to comply with the terms of the Settlement Agreement;
3. Increasing the Probate Allowance to \$3,000/month until the estate is closed, retroactive to March 2013;
4. Authorizing a lump sum payment to satisfy the retroactive amount due;
5. Authorizing Petitioner to select and purchase a new mobile home to replace the existing one;
6. Authorizing and directing Petitioner to coordinate removal of the existing mobile home and installation of the new one;
7. Authorizing Petitioner to pay all costs of transporting and storing household goods and for reasonable hotel accommodations for Lucia and Michael during the installation period;
8. Authorizing Petitioner to seek appropriate relief if Lucia and/or Michael do not cooperate with surrendering the existing mobile home;
9. Instructing Petitioner to comply with all the Estate's obligations under the Settlement Agreement;
10. The Court's entry of this Order is contingent upon the approval and entry of the order in the Trust Matter;
11. Finding the Will pours the Estate assets into the Trust as reformed;
12. Finding that Michael's actions do not constitute a contest of the Will; and
13. For all other orders the Court deems just and proper.

Note: If granted, the Court will set a status hearing for the filing of the petition for final distribution pursuant to the terms of the Settlement Agreement for:

- Friday 6-6-14

If filed prior to that date, the status hearing will come off calendar.

(1) First and Final Accounting and Report of Conservator of Person and Estate, (2)
 Petition for Allowance of Termination of Conservatorship and Discharge of
 Conservator

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| DOD: 12-6-13 | | JAMES P. STAICER , Son and Conservator, is Petitioner. | NEEDS/PROBLEMS/COMMENTS: |
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| | | Revised account period: 9-12-12 through 12-6-12 | See Page 2. |
| | | Accounting: \$18,834.07 / \$993.68 | |
| | | Beginning POH: \$18,834.07 | |
| | | Ending POH: \$0.00 | |
| Cont. from 082013, 090313 | | Conservator: Not requested | |
| <input type="checkbox"/> | Aff.Sub.Wit. | | |
| <input checked="" type="checkbox"/> | Verified | | |
| <input type="checkbox"/> | Inventory | | |
| <input type="checkbox"/> | PTC | | |
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| <input checked="" type="checkbox"/> | Notice of Hrg | | |
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| <input type="checkbox"/> | Duties/Supp | | |
| <input type="checkbox"/> | Objections | | |
| <input type="checkbox"/> | Video Receipt | | |
| <input type="checkbox"/> | CI Report | | |
| <input checked="" type="checkbox"/> | 2620(c) | | |
| <input checked="" type="checkbox"/> | Order | | |
| <input type="checkbox"/> | Aff. Posting | | |
| <input type="checkbox"/> | Status Rpt | | |
| <input type="checkbox"/> | UCCJEA | | |
| <input type="checkbox"/> | Citation | | |
| <input type="checkbox"/> | FTB Notice | | |
| | | <p>Attorney: \$4,500.00 (for 25 hours at a reduced rate of \$180/hr, per itemization)</p> <p>Petitioner states conservatorship was necessary to enable Petitioner to access a 403(b) retirement account that was not transferred into the Conservatee's trust when it was created. American United Life Insurance Company was not satisfied that the Trust, the Advance Health Care Directive, or the Special Power of Attorney could be used to transfer the funds into the trust; therefore conservatorship was necessary. After issuance of letters, the transfer was allowed. The account was never utilized by the conservatorship estate or accessed by Petitioner because funds never became necessary before the Conservatee's death. Petitioner has provided trust account statements as a reference to clarify the status of the accounts.</p> <p>Petitioner requests an order:</p> <ol style="list-style-type: none"> 1. Approving, allowing, and settling the account; 2. Terminating the conservatorship; discharging the conservator and the surety on the bond; and 3. Authorizing payment of \$4,500.00 to the attorney for legal services to the conservatorship during the account period. | |
| | | | Reviewed by: skc |
| | | | Reviewed on: |
| | | | Updates: |
| | | | Recommendation: |
| | | | File 2 – Staicer |

Page 2

1. The petition filed 7-15-13 had an account period of 6-29-12 through 7-13-13. Examiner Notes previously noted that the accounting was not in compliance with Probate Code §2620(b), which requires a separate accounting for the period after the conservatee's date of death, was not presented on the mandatory Judicial Council forms, and charges and credits did not balance. Further, it was unclear if there was property on hand, as a figure of \$17,840.39 was listed, but the petition indicated that there was nothing left in the conservatorship estate, as it did not request any distribution of that amount.

Supplement filed 8-28-13 puts the summary and schedules on the mandatory forms and revises the account to end at DOD (no subsequent period). The summary indicates POH is zero, but charges and credits still do not balance (\$18,834.07 / \$993.68). In the text, Petitioner explains that the asset – a retirement account – was distributed to the pay on death beneficiary; however, because Petitioner does not include the amount as a credit, and the account still technically does not balance.

Examiner's Note: It appears that if the figure previously provided as POH (\$17,840.39) is the same as the amount described as distributed, had been included in the credits summary, the account would balance, given the revised "receipts" figure; however, because that figure is not specifically referenced here, Examiner cannot assume that it is the same.

Atty Donaldson, Larry A., sole practitioner (for Petitioner Kenneth Roberts, Conservator)

First and Final Accounting

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| Age: 19 years | KENNETH ROBERTS , paternal grandfather and Conservator of the Estate appointed on 8/6/2012 without the requirement of bond or a blocked account, is Petitioner. | | NEEDS/PROBLEMS/COMMENTS: |
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| Cont. from 071613 | Order Appointing Probate Conservator filed 8/6/2012 finds Conservatee JESSICA ROBERTS voluntarily requested appointment of a conservator and good cause has been shown for the appointment. <i>Petition for Appointment of Probate Conservator</i> filed 5/22/2012 by the then-proposed Conservatee requested that Kenneth Roberts be appointed as Conservator of the Estate for the following reasons: | | Continued from 8/20/2013. <i>Minute Order</i> states no appearances. Matter is continued to 10/1/2013. The Court orders Larry Donaldson and Kenneth Roberts to be personally present on 10/1/2013. The Court directs that a copy of the examiner notes be sent to Larry Donaldson. |
| Aff.Sub.Wit | | | |
| ✓ Verified | | | Note: Clerk's Certificate of Mailing filed 8/29/2013 shows a copy of the <i>Minute Order</i> dated 8/20/2013 and Examiner Notes were mailed to Attorney Donaldson and Kenneth Roberts on 8/29/2013. |
| ✓ Inventory | | | |
| PTC | | | ~Please see additional page~ |
| Not.Cred. | | | |
| ✓ Notice of Hrg | | | Reviewed by: LEG |
| ✓ Aff.Mail | | | |
| Aff.Pub. | | | Reviewed on: 9/26/13 |
| Sp.Ntc. | | | |
| Pers.Serv. | | | Updates: |
| Conf. Screen | | | |
| Letters | | | Recommendation: |
| Duties/S | | | |
| Objections | | | File 3 – Roberts |
| Video Receipt | | | |
| CI Report | | | |
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| Order | X | First and Final Accounting filed 6/13/2013 contains <i>Exhibits A, B and E</i> , and copies of receipts and distributions made by the Conservator during the period of administration; said accounting does not contain a <i>Summary of Account</i> , period of the account, nor an itemization of any Conservator or Attorney fees paid from the Conservatorship Estate; Schedule entitled "Distributions to Conservatee" shows that on 11/16/2012, \$200,727.77 was paid from the conservatorship estate; <i>Schedule E, Cash Assets on Hand at the End of the Account Period</i> , states all assets have been distributed to the Conservatee on 11/16/2012, and shows cash assets on hand as of 3/17/2013 as \$0.00 . | |
| Aff. Posting | | | |
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| UCCJEA | | | |
| Citation | | | |
| FTB Notice | | | |

NEEDS/PROBLEMS/COMMENTS, continued:The following issues from the last hearing remain:

1. Need *Notice of Hearing* and proof of 15 days' service of the *Notice of Hearing* pursuant to § 2621, § 1460(b)(6), § 1821(b) (which requires notice to the relatives of the Conservatee within the second degree), and CA Rule of Court 7.1054 for the following persons:
 - Christina Roberts, mother;
 - Jennifer Roberts, sister;
 - Charlotte Roberts, grandmother;
 - Gary Dawson, grandfather.
2. *First and Final Accounting* filed 6/13/2013 does not comply with Probate Code §§ 2620 et seq., §§ 1060 et seq., the provisions for accountings of conservatorship estates, and with CA Rule of Court 7.575, most specifically with subsection(f) of 7.575 providing that all standard and simplified accounting filers must provide all information in their accounting schedules or their *Summary of Account* that is required by Probate Code §§ 1060 – 1063, and must provide all information required by Probate Code §§ 1064 in the petition for approval of their account or the report accompanying their account.
3. Conservator Kenneth Roberts is also the appointed personal representative of the *Estate of Michael Roberts*, who was Kenneth Robert's son and the father of Jessica (the Conservatee) and her sister, Jennifer Roberts (age 15). Jennifer's 50% interest in her father's military life insurance benefits were placed into the *Jennifer Roberts Special Needs Trust*, of which Christina Roberts (mother) is Trustee. Christina Roberts requested withdrawal from the *Jennifer Roberts Special Needs Trust* to reimburse Kenneth Roberts, the instant Petitioner and Conservator, for expenses he paid for funeral expenses, house payments, and truck payments/repossession totaling **\$8,491.29**. Christina Roberts states as part of her request that because the Trustee was informed that the *Estate of Michael Roberts* has insufficient funds to pay these debts, Kenneth Roberts has sought half reimbursement from daughter Jessica (the instant Conservatee). Court may require explanation as to whether the **\$4,245.65** (1/2 of **\$8,491.29**) was paid from the instant conservatorship; if so, this disbursement is not reflected in the documents submitted as an accounting, and would not necessarily be an appropriate disbursement from the Conservatorship estate given the Conservatorship estate does not own the house or truck.
4. It appears the Conservatee, having been distributed her estate assets prior to Court order, did not receive the benefit of the Court's oversight and approval of how the conservatorship estate funds should have been disbursed in the Conservatee's best interests pursuant to a required order from the Court terminating the *Conservatorship of the Estate of Jessica Roberts* and distributing the assets to her only after approval of the accounting and petition for distribution per the Probate Code.
5. The *Conservatorship of the Estate of Jessica Roberts* appears not to have been established to protect funds of an incapacitated adult, but rather as a method of circumventing the military benefits policy set in place for protecting persons under the age of 21 who would receive military life insurance benefits by holding distribution until 21 years of age (much like settlors are often wont to do in trusts), such that Jessica Roberts was not only allowed to receive the military life insurance benefits prior to her reaching age 21, but was also distributed conservatorship estate assets prior to approval by order of this Court as required by the Probate Code.

Petition for Instructions to Confirm Settlement Agreement and Authorize Trustee to Fulfill his Obligations Thereunder

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| | | | <p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>Note:</u> Please see Page 1 for details regarding the request for approval of the agreement in both the estate matter and this trust matter. Examiner has not duplicated Examiner Notes.</p> <p><u>Additional Note:</u> This trust matter was opened with regard to determining the controlling estate documents, and was titled as the “Marvin M. Coit 1981 Revocable Living Trust,” which was the original document.</p> <p>However, pursuant to the terms of the Settlement Agreement, the controlling trust document will be the “Marvin M. Coit Family Trust pursuant to the 2005 Amendment” (the 2005 Trust), and the estate will distribute to that trust.</p> <p>If there are further petitions regarding the 2005 Trust after the estate distribution, it may be appropriate to open a new separate trust case that can be appropriately titled for the sake of clarity and organization.</p> |
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| | Duties/Supp | | |
| | Objections | | |
| | Video Receipt | | |
| | CI Report | | |
| | 9202 | | |
| ✓ | Order | | |
| | Aff. Posting | | |
| | Status Rpt | | |
| | UCCJEA | | |
| | Citation | | |
| | FTB Notice | | |
| | | | <p>Reviewed by: skc</p> <p>Reviewed on: 9-27-13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 4 – Coit</p> |

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| DOD: 3/9/2013 | | <p>MARIA GALLEGOS, surviving spouse, is petitioner.</p> <p>40 days since DOD.</p> <p>No other proceedings</p> <p>I & A - \$45,000.00</p> <p>Decedent died intestate.</p> <p>Petitioner requests Court determination that decedent's interest in real property located 5078 E. Platt in Fresno passes to her pursuant to intestate succession and assignments of interest from decedent's children.</p> <p>Disclaimer of Interest filed on 6/11/2013.</p> | <p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Continued from 8/13/2013.</p> <p>1. There does not appear to be a provision in the Probate Code that would allow an individual to assign or disclaim their right in a summary proceeding. Therefore all who succeed to the property (petitioner and decedent's 4 children) must petition. If after all those entitled receive the property they can then transfer their interest in the property to the petitioner.</p> <p>2. Pursuant to Probate Code §282 a Disclaimer of Interest acts if the disclaimant predeceased the creator of the interest (decedent). Therefore, the issue of those disclaiming would then be entitled to the disclaimed property.</p> | |
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| Cont. from 060413, 070913, 081313 | | | | |
| <input type="checkbox"/> | Aff.Sub.Wit. | | | |
| <input checked="" type="checkbox"/> | Verified | | | |
| <input type="checkbox"/> | Inventory | | | |
| <input type="checkbox"/> | PTC | | | |
| <input type="checkbox"/> | Not.Cred. | | | |
| <input checked="" type="checkbox"/> | Notice of Hrg | | | |
| <input checked="" type="checkbox"/> | Aff.Mail | | | W/ |
| <input type="checkbox"/> | Aff.Pub. | | | |
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| <input type="checkbox"/> | Letters | | | |
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| <input type="checkbox"/> | Objections | | | |
| <input type="checkbox"/> | Video Receipt | | | |
| <input type="checkbox"/> | CI Report | | | |
| <input type="checkbox"/> | 9202 | | | |
| <input checked="" type="checkbox"/> | Order | | | |
| <input type="checkbox"/> | Aff. Posting | | | |
| <input type="checkbox"/> | Status Rpt | | | |
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| <input type="checkbox"/> | Citation | | | |
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| | | | Reviewed by: KT | |
| | | | Reviewed on: 9/25/2013 | |
| | | | Updates: | |
| | | | Recommendation: | |
| | | | File 5 – Gallegos | |

Petition for Appointment of Guardian of the Person (Prob. C. 1510)

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| Age: 1 | | <u>TEMPORARY EXPIRES 10/01/2013</u> | | NEEDS/PROBLEMS/COMMENTS: | |
| | | JON REINECCIUS and MONICA REINECCIUS , second cousins, and RACHEL VANPELT and WILLIAM VANPELT , maternal grandparents are petitioners. | | <p>Minute Order of 08/13/2013: Mother objects to the petition. Counsel is directed to provide personal service to father. The Court authorizes mother to have supervised visits at a place mutually agreed upon by the parties. The Court order that mother provide a clean drug test before visits. The Court further orders that Ms. Jones' clients pay for the costs of testing. Ms. Jones is directed to provide the mother a list of drug facilities.</p> <ol style="list-style-type: none"> 1. Need proof of personal service fifteen (15) days prior to the hearing of the Notice of Hearing along with a copy of the Petition for Appointment of Guardian or consent and waiver of notice or declaration of due diligence for: <ul style="list-style-type: none"> • William Borst (Father) • Amy Vanpelt (Mother) 2. Need Letters. 3. Need Orders. | |
| Cont. from | | | | | |
| | Aff.Sub.Wit. | | | | |
| ✓ | Verified | Father: WILLIAM BORST | | | |
| | Inventory | Mother: AMY VANPELT , Objection filed 07/31/2013 | | | |
| | PTC | Paternal Grandfather: William Borst, Sr., served by mail on 08/08/2013 | | | |
| | Not.Cred. | Paternal Grandmother: Cathy Borst, served by mail on 08/08/2013 | | | |
| ✓ | Notice of Hrg | Petitioners state: the minor child needs immediate care due to the fact that his biological mother, Amy Vanpelt, cannot provide care for him. She is currently homeless and cannot provide shelter for the child. She has expressed many times that she is an unfit parent, and requested that petitioners adopt the child. She has since changed her mind each time she was contacted by the adoption service. The mother is not fit to care for the child, and has expressed many times that she wants to kill herself. She has made threats like this before and has been deemed 51/50. The mother and the father of the child have a history of substance abuse. Petitioners Jon and Monica Reineccius have had the child in their care since 07/02/2013. | | | |
| ✓ | Aff.Mail | | | | |
| | Aff.Pub. | | | | |
| | Sp.Ntc. | | | | |
| | Pers.Serv. | | X | | |
| ✓ | Conf. Screen | | | | |
| | Letters | | X | | |
| ✓ | Duties/Supp | | | | |
| ✓ | Objections | | | | |
| | Video Receipt | | | | |
| ✓ | CI Report | | | | |
| | 9202 | | | | |
| | Order | | X | | |
| | Aff. Posting | | | | |
| | Status Rpt | | | | |
| ✓ | UCCJEA | | | | |
| | Citation | Petitioners state that the mother has been described by law enforcement as "unfit." Police observed her in a vehicle not safe for a child. The vehicle had a broken window, cigarette butts, expired tags and an unsecured child seat. | | | |
| | FTB Notice | Please see additional page | | | |
| | | | | Reviewed by: LV | |
| | | | | Reviewed on: 09/25/2013 | |
| | | | | Updates: | |
| | | | | Recommendation: | |
| | | | | File 6 – Borst-Van Pelt | |

Petitioners' statement continued:

Attached to Petition are texts from the mother showing her behavior and suicidal statements.

Declaration of Petitioner Jon Reineccius filed 07/30/2013 in support of the petition for guardianship.

Declaration of Petitioner Monica Reineccius filed 07/30/2013 in support of the petition for guardianship.

Declaration of Petitioner Rachel Vanpelt filed 07/30/2013 in support of the petition for guardianship.

Declaration of Petitioner William Vanpelt filed 07/30/2013 in support of the petition for guardianship.

Declaration of Barbie Holloway filed 08/08/2013 in support of the petition for guardianship.

Declaration of Samantha Hindman filed 08/08/2013 in support of the petition for guardianship.

Declaration of Rachel Vanpelt filed 08/12/2013 stating the mother, Amy Vanpelt, has a chemical imbalance and prescribed medication and counseling. She refuses to take the medication and has never attended counseling. In February Amy Vanpelt became extremely agitated while holding the child and began throwing things at Rachel Vanpelt. Amy Vanpelt put her hand on Rachel Vanpelt's throat and said she could really hurt her and had friends that could "get her". Rachel Vanpelt filed a police report with the San Benito Sheriff's office.

Declaration filed 08/12/2013 which contains a letter from Childtime Learning Center.

Objection of Mother, Amy Vanpelt, filed 07/31/2013 states that she has a home and is self-employed. She states that she wants and is able to care for her child. She states the best place for a child is with its mother. She is of sound mind and is ready to get her child back. She states she has never said she would relinquish her parental rights. She disagrees with the decisions her parents have made. She states the allegations that were made are untruthful and hurtful. She states she has spent several months building a stable home for her child and that the people who have her child do not answer her calls.

Supplemental Declaration of Amy Van Pelt in Opposition to Petition for Guardianship filed on 09/23/2013 states she is a fit mother who is able and always been able to provide for her son, she has no history or present record of drug abuse and she is of sound mind and stable environment and wanting to proceed with her future with her son as planned.

Attached to the declaration are letters in support of Amy Van Pelt retaining custody of her son.

Court Investigator Jo Ann Morris' report filed 09/24/2013.

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|-------------------------------------|----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| Age: 12 | | <u>TEMPORARY EXPIRES 10/01/2013</u> | | NEEDS/PROBLEMS/COMMENTS: | |
| | | ANGELICA A. ARTIGAS , maternal grandmother is petitioner. | | 1. Need proof of service fifteen days prior to the hearing of the Notice of Hearing along with a copy of the Petition for Appointment of Guardian or consent and waiver of notice or declaration of due diligence for: <ul style="list-style-type: none"> Dale A. Verduzco (Paternal Grandfather) Paternal Grandmother (Unknown) | |
| Cont. from | | Father: DALE A. VERDUZCO , personally served on 08/08/2013 | | | |
| <input type="checkbox"/> | Aff.Sub.Wit. | | | | |
| <input checked="" type="checkbox"/> | Verified | | | | |
| <input type="checkbox"/> | Inventory | Mother: VANESSA ARTIGAS , personally served on 08/09/2013 | | | |
| <input type="checkbox"/> | PTC | Paternal Grandfather: Dale A. Verduzco | | | |
| <input type="checkbox"/> | Not.Cred. | Paternal Grandmother: Unknown | | | |
| <input checked="" type="checkbox"/> | Notice of Hrg | | | | |
| <input type="checkbox"/> | Aff.Mail | <input checked="" type="checkbox"/> | Maternal Grandfather: Juan M. Artigas, Deceased | | |
| <input type="checkbox"/> | Aff.Pub. | | | | |
| <input type="checkbox"/> | Sp.Ntc. | Minor: Joseph Emmanuel Artigas, personally served on 08/14/2013 | | | |
| <input checked="" type="checkbox"/> | Pers.Serv. | | | 2. Need Order. | |
| <input checked="" type="checkbox"/> | Conf. Screen | Petitioner states: on 07/04/2013 the minor child was provided Mike's Hard Lemonade by his mother and encouraged to drink it. He was also invited to smoke marijuana or other intoxicating substance on 06/30/2013. Joseph, the minor, is 12 years old and should not be exposed to the use of intoxicants at his age. The minor has resided with the petitioner since 07/04/2013 after the police were called out to his mother's residence. Petitioner states the mother ripped the minor's shirt off of him and scratched him in the process. Petitioner also states that she contacted CPS regarding the drugs and alcohol being consumed in the mother's home. | | | |
| <input checked="" type="checkbox"/> | Letters | | | | |
| <input type="checkbox"/> | Duties/Supp | | | | |
| <input type="checkbox"/> | Objections | | | | |
| <input type="checkbox"/> | Video Receipt | | | | |
| <input checked="" type="checkbox"/> | CI Report | | | | |
| <input type="checkbox"/> | 9202 | | | | |
| <input type="checkbox"/> | Order | <input checked="" type="checkbox"/> | | | |
| <input type="checkbox"/> | Aff. Posting | | | | |
| <input type="checkbox"/> | Status Rpt | | | | |
| <input checked="" type="checkbox"/> | UCCJEA | Court Investigator Jennifer Daniel's report filed 09/25/2013. | | | |
| <input type="checkbox"/> | Citation | | | | |
| <input type="checkbox"/> | FTB Notice | | | | |
| | | | | Reviewed by: LV | |
| | | | | Reviewed on: 09/25/2013 | |
| | | | | Updates: 09/26/2013 | |
| | | | | Recommendation: | |
| | | | | File 7 – Artigas | |

Petition for Probate of Lost Will and for Letters Testamentary; Authorization to Administer Under IAEA (Prob. C. 8002, 10450)

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|--------------------------|----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|
| DOD: 03/09/13 | | ANGIE STUCKEY , friend/named executor without bond, is Petitioner. Full IAEA - o.k. Will dated 01/28/10 – Note: Petitioner states that she provided the original will to her attorney who prepared a petition for probate and sent the Petition for Probate along with the original will to Document Delivery Service to be filed with Fresno Superior Court. Unfortunately, the Court never received that Petition for Probate or the original will. The attorney has searched his office extensively and has confirmed that the documents were picked up by the attorney service and thereafter lost before being filed with the Court. Petitioner states that the copy of the will attached to this Petition for probate is a copy of the original will and was signed by the decedent based on her knowledge of the decedent's handwriting. Further Petitioner believes that the Will was never revoked by the decedent. Residence: Fresno Publication: The Business Journal <u>Estimated Value of the Estate:</u> Personal property - \$200,000.00 Probate Referee: RICK SMITH | NEEDS/PROBLEMS/COMMENTS: 1. Need Duties and Liabilities of Personal Representative and Confidential Supplement to Duties and Liabilities of Personal Representative. 2. Need Order with a copy of the Lost Will attached. 3. Need Letters. <u>Note:</u> If Petition is granted, status hearings will be set as follows: <ul style="list-style-type: none"> Friday, 03/07/14 at 9:00 am in Dept. 303 for filing of the Inventory & Appraisal Friday, 12/05/14 at 9:00 am in Dept. 303 for filing of the Accounting/Petition for Final Distribution Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearings on the matter, the status hearing will come off calendar and no appearance will be required. | |
| | | | | |
| | | | | |
| | | | | |
| Cont. from | | | | |
| <input type="checkbox"/> | Aff.Sub.Wit. | | | s/p |
| ✓ | Verified | | | |
| | Inventory | | | |
| | PTC | | | |
| | Not.Cred. | | | |
| ✓ | Notice of Hrg | | | |
| ✓ | Aff.Mail | | | w/o |
| ✓ | Aff.Pub. | | | |
| | Sp.Ntc. | | | |
| | Pers.Serv. | | | |
| | Conf. Screen | | | |
| | Letters | x | | |
| | Duties/Supp | x | | |
| | Objections | | | |
| | Video Receipt | | | |
| | CI Report | | | |
| | 9202 | | | |
| | Order | x | | |
| | Aff. Posting | | | |
| | Status Rpt | | | |
| | UCCJEA | | | |
| | Citation | | | |
| | FTB Notice | | | |

Reviewed by: JF

Reviewed on: 09/25/13

Updates: 09/30/2013 (LV)

Recommendation:

File 8 – Fries

**Petition for Probate of Will and for Letters Testamentary; Authorization to
Administer Under IAEA (Prob. C. 8002, 10450)**

| | | | |
|------------------------|----------------------|------------------------------------------------------------------------------|---------------------------------|
| DOD: 08/05/2013 | | ROBERT ALLEN MAXWELL , son/named executor without bond is petitioner. | NEEDS/PROBLEMS/COMMENTS: |
| | | | |
| | | | |
| | | | |
| | | | |
| | | Full IAEA –o.k. | |
| | | | |
| Cont. from | | | |
| | Aff.Sub.Wit. | Will dated: 04/23/2013 | |
| ✓ | Verified | | |
| | Inventory | Residence: Fresno | |
| | PTC | Publication: The Business Journal | |
| | Not.Cred. | | |
| ✓ | Notice of Hrg | Estimated value of the Estate: | |
| ✓ | Aff.Mail | Personal property \$5,000.00 | |
| ✓ | Aff.Pub. | Real property \$200,000.00 | |
| | | Total: \$205,000.00 | |
| | Sp.Ntc. | | |
| | Pers.Serv. | Probate Referee: Steven Diebert | |
| | Conf. Screen | | |
| ✓ | Letters | | |
| ✓ | Duties/Supp | | |
| | Objections | | |
| | Video Receipt | | |
| | CI Report | | |
| | 9202 | | |
| ✓ | Order | | |
| | Aff. Posting | | |
| | Status Rpt | | |
| | UCCJEA | | |
| | Citation | | |
| | FTB Notice | | |
| | | | Reviewed by: LV |
| | | | Reviewed on: 09/25/2013 |
| | | | Updates: 09/30/2013 |
| | | | Recommendation: |
| | | | File 9 – Maxwell |

1. Need Confidential Supplement to Duties & Liabilities of Personal Representative.

Note: If the petition is granted status hearings will be set as follows:

- **Friday, 03/07/2014 at 9:00a.m. in Dept. 303** for the filing of the inventory and appraisal and
- **Friday, 12/05/2014 at 9:00a.m. in Dept. 303** for the filing of the first account and final distribution.

Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearings on the matter the status hearing will come off calendar and no appearance will be required.

| | | | |
|-------------------------------------|----------------------|-----------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| DOD: 03/23/2013 | | JEFFREY J. SCHWABENLAND , son is petitioner. | NEEDS/PROBLEMS/COMMENTS: |
| | | | |
| | | 40 days since DOD | 1. Attachment 11 does not include decedent's interest in the real property. |
| | | No other proceedings | |
| Cont. from | | I&A - \$140,000.00 | |
| <input type="checkbox"/> | Aff.Sub.Wit. | | |
| <input checked="" type="checkbox"/> | Verified | | |
| <input checked="" type="checkbox"/> | Inventory | | |
| <input type="checkbox"/> | PTC | | |
| <input type="checkbox"/> | Not.Cred. | | |
| <input checked="" type="checkbox"/> | Notice of Hrg | | |
| <input checked="" type="checkbox"/> | Aff.Mail | w/ | |
| <input type="checkbox"/> | Aff.Pub. | | Petitioner requests Court determination that decedent's interest in real property located at 5216 S. Orange Ave, Fresno, Ca. pass to Jeffrey J. Schwabenland pursuant to intestate succession. |
| <input type="checkbox"/> | Sp.Ntc. | | |
| <input type="checkbox"/> | Pers.Serv. | | |
| <input type="checkbox"/> | Conf. Screen | | |
| <input type="checkbox"/> | Letters | | |
| <input type="checkbox"/> | Duties/Supp | | |
| <input type="checkbox"/> | Objections | | |
| <input type="checkbox"/> | Video Receipt | | |
| <input type="checkbox"/> | CI Report | | |
| <input type="checkbox"/> | 9202 | | |
| <input checked="" type="checkbox"/> | Order | | Reviewed by: LV Reviewed on: 09/25/2013 Updates: Recommendation: File 10 – Schwabenland |
| <input type="checkbox"/> | Aff. Posting | | |
| <input type="checkbox"/> | Status Rpt | | |
| <input type="checkbox"/> | UCCJEA | | |
| <input type="checkbox"/> | Citation | | |
| <input type="checkbox"/> | FTB Notice | | |

Petition for Appointment of Probate Conservator of the Person (Prob. C. 1820, 1821, 2680-2682)

| | | | | | |
|---------------|---------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| Age: 22 years | | ENRIQUE CHAVIRA , brother, and ANA MARIA CHAVIRA (RODRIGUEZ) , mother, are petitioners and request that ENRIQUE CHAVIRA be added as a co-conservator with medical consent powers. | NEEDS/PROBLEMS/COMMENTS: Court Investigator Advised Rights on 9/13/13. 1. Need Video Viewing Receipt for Enrique Chavira. | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| Cont. from | | | | ANA MARIA CHAVIRA (RODRIGUEZ) , mother, was appointed as conservator on 3/24/2009. Conservator was previously adjudicated to lack the capacity to give informed consent to medical treatment. Petitioners state ANA MARIA CHAVIRA (RODRIGUEZ) was previously appointed as conservator and would like the comfort and convenience of her son, ENRIQUE CHAVIRA to assist her as co-conservator. | |
| | Aff.Sub.Wit. | | | | |
| ✓ | Verified | | | | |
| | Inventory | | | | |
| | PTC | | | | |
| | Not.Cred. | | | | |
| ✓ | Notice of Hrg | | | | |
| ✓ | Aff.Mail | W/ | | | |
| | Aff.Pub. | | | | |
| | Sp.Ntc. | | | | |
| | Pers.Serv. | | Court Investigator Jennifer Daniel's Report filed on 9/24/13. | | |
| ✓ | Conf. Screen | | | | |
| ✓ | Letters | | | | |
| ✓ | Duties/Supp | | | | |
| | Objections | | | | |
| | Video Receipt | | | | |
| ✓ | CI Report | | | | |
| | 9202 | | | | |
| ✓ | Order | | | | |
| | Aff. Posting | | | | |
| | Status Rpt | | Reviewed by: KT Reviewed on: 9/25/13 Updates: Recommendation: File 11 – Chavira | | |
| | UCCJEA | | | | |
| ✓ | Citation | | | | |
| | FTB Notice | | | | |
| | | | | | |

12

Atty Bradbury, Peggy (pro per – maternal grandmother/Petitioner)

Petition for Visitation

| | | | |
|-------------|---------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Rebecca, 11 | | PEGGY BRADBURY, maternal grandmother, is Petitioner. | NEEDS/PROBLEMS/COMMENTS: |
| Eva, 7 | | | |
| | | MELISSA RUSSELL, paternal grandmother, was appointed Guardian of the Person and Estate on 08/09/10. Letters of Guardianship were issued on 08/26/10. | 1. Proof of service on the Notice of Hearing filed 09/04/13 indicates that the Notice of Hearing was mailed to the guardian's attorney and not to the guardian. Further, the proof of service does not indicate that a copy of the Petition for Visitation was served along with the Notice of Hearing. Service to an attorney is insufficient pursuant to California Rule of Court 7.51 and Probate Code § 1214. Need proof of service by mail at least 15 days before the hearing to Guardian, Melissa Russell. |
| | | | |
| Cont. from | | Parents are both deceased. | |
| | Aff.Sub.Wit. | | |
| ✓ | Verified | Petitioner states that her daughter, the children's mother, died in October 2009. After her death, the father allowed the guardian to have frequent visits. Petitioner states that she had a good relationship with the father until his death in May 2010. After the father's death, the paternal grandmother, Melissa Russell, was appointed guardianship. Initially, Petitioner's relationship with the guardian was good and Petitioner visited with the children frequently and the children spent all holidays with Petitioner. In August 2011, the guardian abruptly stopped all visitation and cut off all communication with petitioner. The guardian continues to refuse Petitioner visitation. | |
| | Inventory | | |
| | PTC | Petitioner requests visitation with the children as follows: | |
| | Not.Cred. | | |
| ✓ | Notice of Hrg | <ol style="list-style-type: none"> 1. During the summer months. 2. One week of Easter vacation. 3. One week of Thanksgiving vacation. 4. Two weeks of Christmas vacation. 5. Anytime Petitioner is in Fresno as reasonably agreed between Petitioner and Guardian. | |
| ✓ | Aff.Mail | | |
| | Aff.Pub. | For visitation in Sacramento, Petitioner requests that she meet the guardian in Turlock to exchange the children. | |
| | Sp.Ntc. | | |
| | Pers.Serv. | For visitation in Fresno, Petitioner requests she be allowed to pick up and drop off the children from the guardian's home. While visiting in Fresno, the children will stay with Petitioner at her cousin's home in Fresno. | |
| | Conf. Screen | | |
| | Letters | Continued on Page 2 | |
| | Duties/Supp | | |
| | Objections | | |
| | Video Receipt | | |
| | CI Report | | |
| | 9202 | | |
| | Order | x | |
| | Aff. Posting | | |
| | Status Rpt | | |
| | UCCJEA | | |
| | Citation | | |
| | FTB Notice | | |

Reviewed by: JF

Reviewed on: 09/25/13

Updates: 09/26/13

Recommendation:

File 13 – Pitkin

Guardian's Responsive Declaration in Opposition of Petition for Visitation filed 09/25/13 states:

Petitioner's petition for visitation is misleading. Petitioner did have some visitation with the girls approximately every 6 weeks or so while their father was still alive. The visitation did continue for a short time after Justin's death. However, she did not have extensive visits with the girls as she alleges in her Petition. Further, the guardian's relationship with Petitioner was strained at best and the guardian ultimately determined that it would be detrimental to the girls to have any unsupervised visits with Petitioner, due to Petitioner's behavior. On 08/24/11, guardian's attorney sent a letter to Petitioner notifying her that any future visits would need to be supervised and at the discretion of a therapist. Guardian came to the decision to not allow Petitioner unsupervised visits after she insisted that she discuss paternity and other issues with them that were not age appropriate and undermining to the guardian. This started happening in 2010, just after the father passed away. Guardian has attached numerous text messages to her Response to show the court the type of messages she received from Petitioner. In the messages, Petitioner goes from being angry to nice and then sad. Many of the messages were threatening to the guardian with Petitioner calling guardian a "liar" and stating that she would "kick my ass". On a phone call, Petitioner blurted out to Rebecca that Justin was not her father. Upon that occurring, Guardian took the phone from Rebecca and has not allowed Petitioner to communicate with the girls since. Rebecca was 8 years old when this occurred and had lost both of her parents within the last year. At no time has Petitioner asked for visitation under the conditions Guardian set forth in her letter of 08/24/11. Instead she has continually harassed Guardian via cell phone.

Guardian states that the only reason Justin was not initially on Rebecca's birth certificate is because she was born before he and Michelle were married and Justin had not signed the Declaration of Paternity when the nurse came in with the birth certificate forms. Michelle listed Justin as Rebecca's father in her baby book and never told Justin or Rebecca that he was not her father. After Michelle's death, Justin petitioned the Court for a Judgment of Paternity so that everything was legal and there was no question of his paternity. The Judgment was granted on 05/21/10 (just 11 days after Justin's death), and Rebecca's birth certificate has since been amended listing Justin as her father.

Petitioner's behavior and the statements she makes when she is angry are the reason Guardian does not believe it is in the girls' best interest to have visitation with Petitioner in an unsupervised setting. Initially, Guardian wanted the girls to have a continuing relationship with their mother's family, however, as time went on, Guardian's interactions with Petitioner showed her instability and Guardian chose to limit visitation to a supervised setting. The important thing is what Petitioner did not tell the Court. She did not attach any writings between us because they were harmful to her request. She also did not mention Guardian's letter dated 08/24/11 stating that only supervised visits would be allowed moving forward.

Guardian requests the Court deny Petitioner's request for visitation with the children in its entirety. Although they miss their parents greatly, they have adjusted to their new lives and attend therapy every other Friday instead of once per week as they had in the beginning. The girls do not need the horrors of their parent's death brought up in an unhealthy manner such as Petitioner has historically displayed. The girls should not be subjected to the behavior that Petitioner displays or the hurtful things she openly says when she is angry. If the Court feels that the girls should have contact with Petitioner at this point, then that visitation should be in a therapeutic setting with the children's therapist with all costs of these therapeutic sessions being the responsibility of Petitioner.

Petition for Appointment of Temporary Guardianship of the Person (Prob. C. 2250)

| | | | | | |
|-------------------------------------|---------------|--------------------------------------------------------------------------------------------------------------------------------|--|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| Age: 3 | | <u>GENERAL HEARING 11/09/13</u> | | NEEDS/PROBLEMS/COMMENTS: | |
| | | JEANETTE ORTEGA, maternal grandmother, is Petitioner. | | 1. Need Notice of Hearing. | |
| | | Father: DONNY BARNs – currently incarcerated | | 2. Need proof of service at least 5 court days before the hearing of Notice of Hearing with a copy of the Petition for Appointment of Temporary Guardian of the Person <u>or</u> Consent & Waiver of Notice <u>or</u> Declaration of Due Diligence for: | |
| Cont. from | | Mother: VANITY SUAREZ | | a. Donny Barns (father) – personal service required | |
| <input type="checkbox"/> | Aff.Sub.Wit. | | | b. Vanity Suarez (mother) – personal service required | |
| <input checked="" type="checkbox"/> | Verified | Paternal grandparents: NOT LISTED | | | |
| <input type="checkbox"/> | Inventory | Maternal grandfather: NOT LISTED | | | |
| <input type="checkbox"/> | PTC | Petitioner states that she was previously appointed temporary guardian, but missed the hearing for the permanent guardianship. | | | |
| <input type="checkbox"/> | Not.Cred. | | | | |
| <input type="checkbox"/> | Notice of Hrg | <input checked="" type="checkbox"/> | | | |
| <input type="checkbox"/> | Aff.Mail | | | | |
| <input type="checkbox"/> | Aff.Pub. | | | | |
| <input type="checkbox"/> | Sp.Ntc. | | | | |
| <input type="checkbox"/> | Pers.Serv. | <input checked="" type="checkbox"/> | | | |
| <input checked="" type="checkbox"/> | Conf. Screen | | | | |
| <input checked="" type="checkbox"/> | Letters | | | | |
| <input checked="" type="checkbox"/> | Duties/Supp | | | | |
| <input type="checkbox"/> | Objections | | | | |
| <input type="checkbox"/> | Video Receipt | | | | |
| <input type="checkbox"/> | CI Report | | | | |
| <input type="checkbox"/> | 9202 | | | | |
| <input checked="" type="checkbox"/> | Order | | | | |
| <input type="checkbox"/> | Aff. Posting | | | Reviewed by: JF | |
| <input type="checkbox"/> | Status Rpt | | | Reviewed on: 09/25/13 | |
| <input checked="" type="checkbox"/> | UCCJEA | | | Updates: | |
| <input type="checkbox"/> | Citation | | | Recommendation: | |
| <input type="checkbox"/> | FTB Notice | | | File 14 – Barns | |

Petition for Appointment of Guardian of the Person (Prob. C. 1510)

| | | | |
|---------------------------|---------------|-------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Ruby, age 7 | | TEMP EXPIRES 10-1-13 | NEEDS/PROBLEMS/COMMENTS: |
| Adam, age 5 | | | |
| | | CARMEN GONZALEZ, Maternal Grandmother, is Petitioner. | Minute Order 7-9-13: On the Courts own motion Temporary Guardianship is granted, Letters expire 8-13-13. Father is to be noticed of hearing. Continued to: 8/13/13 at 9 am in dept. 303. |
| | | | |
| Cont. from 070913, 081313 | | Father: BUCK PLUMLEE | Minute Order 8-13-13: The Court dispenses with further notice to the mother. The petitioner is directed to provide notice to the father. |
| | | - Fresno County Jail | |
| | Aff.Sub.Wit. | - Personally served 8-23-13 | Note: Father was personally served at the Fresno County Jail on 8-23-13. |
| ✓ | Verified | | |
| | Inventory | Mother: CLARISSA MALDONADO | As of 9-25-13, the following issue remains: |
| | PTC | - Declaration of Due Diligence filed 5-7-13 | |
| | Not.Cred. | - Notice dispensed 8-13-13 | 1. Need proof of service of Notice of Hearing with a copy of the petition at least 15 days prior to the hearing per Probate Code §1510 or consent and waiver of notice or declaration of due diligence on: - Betty Gomez (Paternal Grandmother) |
| | Notice of Hrg | X | |
| | Aff.Mail | X | |
| | Aff.Pub. | | |
| | Sp.Ntc. | | Reviewed by: skc |
| | Pers.Serv. | X | |
| ✓ | Conf. Screen | | Reviewed on: 9-25-13 |
| ✓ | Letters | | Updates: |
| ✓ | Duties/Supp | | Recommendation: |
| | Objections | | File 15 – Plumlee |
| | Video Receipt | | |
| ✓ | CI Report | | |
| ✓ | Clearances | | |
| ✓ | Order | | |
| | Aff. Posting | | |
| | Status Rpt | | |
| ✓ | UCCJEA | | |
| | Citation | | |
| | FTB Notice | | |

Petition to Determine Succession to Real and Personal Property (Prob. C. 13151)

| | | | | | | | | |
|-------------------|---------------|----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--|
| DOD: 04/04/2013 | | | SALVADOR DIAZ, father, is petitioner. | | | NEEDS/PROBLEMS/COMMENTS: | | |
| | | | 40 days since DOD | | | Minute Order of 9/03/2013: No appearances. The Court directs that a copy of the minute order and examiner notes be sent to Salvador Diaz. Salvador Diaz is ordered to be personally present on 10/01/2013. The following issues remain: 1. Attachment 11 does not provide the decedent's interest in the real property. 2. The 2002 Nissan Truck listed on Attachment 11 was not included in the order. Note to Judge: In the past assignments on summary proceedings were not allowed. There has been discussions with Research Attorney Dawn Annino however a resolution is still unclear to the Examiners. | | |
| | | | No other proceedings | | | | | |
| Cont. from 090313 | | | | | | | | |
| | Aff.Sub.Wit. | | I&A \$72,801.65 | | | | | |
| ✓ | Verified | | Decedent died intestate. | | | | | |
| | Inventory | | Petitioner requests to assign his interest, or title to any and all property that has accrued as a result of being an heir to the estate of Carlos Diaz, to Maria Landeros, petitioner's daughter. Decedent requests Court determination that decedent's interest in real property located at 1260 South Ave, Orange Cove, Ca., Wells Fargo Check Account #5358043379, 6478198622, Bank of America Checking Account #000077566640, Bank of America CD #70000077102723, uncashed checks in the amount of \$681.71 pass to Maria Landeros. | | | | | |
| | PTC | | | | | | | |
| | Not.Cred. | | | | | | | |
| ✓ | Notice of Hrg | | | | | | | |
| ✓ | Aff.Mail | w/ | | | | | | |
| | Aff.Pub. | | | | | | | |
| | Sp.Ntc. | | | | | | | |
| | Pers.Serv. | | | | | | | |
| | Conf. Screen | | | | | | | |
| | Letters | | | | | | | |
| | Duties/Supp | | | | | | | |
| | Objections | | | | | | | |
| | Video Receipt | | | | | | | |
| | CI Report | | | | | | | |
| | 9202 | | | | | | | |
| ✓ | Order | | | | | | | |
| | Aff. Posting | | | | | | | |
| | Status Rpt | | | | | | | |
| | UCCJEA | | | | | | | |
| | Citation | | | | | | | |
| | FTB Notice | | | | | | | |
| | | | | | | Reviewed by: LV Reviewed on: 09/25/2013 Updates: Recommendation: File 16 - Diaz | | |

| | | | | |
|-------------------------------------------------------------------------------------------------------------------------------------------|---------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Age: 8 years | | TEMPORARY EXPIRES 10/1/2013 | | NEEDS/PROBLEMS/COMMENTS: 1. Need Notice of Hearing. 2. Need proof of personal service along with a copy of the Petition or Consent and Waiver of Notice or Declaration of Due Diligence on: a. Scott Lunsford (father) b. Crystal Bailey (mother) – unless the court dispenses with notice. 3. Need proof of personal service along with a copy of the Petition or Consent and Waiver of Notice or Declaration of Due Diligence on: a. Joshua Lunsford (paternal grandfather) b. Michelle ? (paternal grandmother) c. Paul Bailey (maternal grandfather) |
| | | MONTI GALE CLARK , maternal grandmother, is petitioner. Father: SCOTT LUNSFORD Mother: CRYSTAL BAILEY – Declaration of Due Diligence filed on 8/12/13. Paternal grandfather: Joshua Lunsford Paternal grandmother: Michelle (last name unknown) Maternal grandfather: Paul Bailey Petitioner states the child has been repeatedly abandoned by her parents. She has no medical insurance and is in need of checkups and dental treatment. For most of her life she has lived in hotels, sheds and spent numerous nights in Roeding Park with her paternal grandfather. Court Investigator Julie Negrete's Report filed on 2/25/13 | | |
| | | | | |
| | | | | |
| | | | | |
| Cont. from | | | | |
| | Aff.Sub.Wit. | | | |
| ✓ | Verified | | | |
| | Inventory | | | |
| | PTC | | | |
| | Not.Cred. | | | |
| | Notice of Hrg | X | | |
| | Aff.Mail | X | | |
| | Aff.Pub. | | | |
| | Sp.Ntc. | | | |
| | Pers.Serv. | X | | |
| ✓ | Conf. Screen | | | |
| ✓ | Letters | | | |
| ✓ | Duties/Supp | | | |
| | Objections | | | |
| | Video Receipt | | | |
| ✓ | CI Report | | | |
| | 9202 | | | |
| ✓ | Order | | | |
| | Aff. Posting | | | |
| | Status Rpt | | | |
| ✓ | UCCJEA | | | |
| | Citation | | | |
| | FTB Notice | | | |
| <div>Reviewed by: KT</div> <div>Reviewed on: 9/25/2013</div> <div>Updates:</div> <div>Recommendation:</div> <div>File 17 – Lunsford</div> | | | | |

Petition to Determine Succession to Real Property (Prob. C. 13151)

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|-----------------------|----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|
| DOD: 2/28/2013 | | <p>KELLY TAYLOR, Spouse, is petitioner.</p> <p>40 days since DOD.</p> <p>No other proceedings.</p> <p>Will dated 1/20/2013 devises entire estate to spouse, Kelly Taylor)</p> <p>I & A - \$140,000.00</p> <p>Petitioner requests Court determination that Decedent's 100% interest in real property located at 434 W. San Gabriel in Clovis passes to her pursuant to Decedent's Will.</p> | <p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Proof of service of the Notice of Hearing was mailed on 9/21/13, 9 days prior to the hearing and not the required 15 days prior to the hearing</p> | |
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| Cont. from | | | | |
| | Aff.Sub.Wit. | | | |
| ✓ | Verified | | | |
| | Inventory | | | |
| | PTC | | | |
| | Not.Cred. | | | |
| ✓ | Notice of Hrg | | | |
| ✓ | Aff.Mail | | | W/ |
| | Aff.Pub. | | | |
| | Sp.Ntc. | | | |
| | Pers.Serv. | | | |
| | Conf. Screen | | | |
| | Letters | | | |
| | Duties/Supp | | | |
| | Objections | | | |
| | Video Receipt | | | |
| | CI Report | | | |
| | 9202 | | | |
| ✓ | Order | | | |
| | Aff. Posting | | | |
| | Status Rpt | | | |
| | UCCJEA | | | |
| | Citation | | | |
| | FTB Notice | | | |
| | | | Reviewed by: KT | |
| | | | Reviewed on: 9/25/13 | |
| | | | Updates: 9/26/13 | |
| | | | Recommendation: | |
| | | | File 18 – White | |

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|----------------------|----------------------|-----------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| Age: 7 months | | <u>GENERAL HEARING 12/2/2013</u> | | NEEDS/PROBLEMS/COMMENTS: | |
| | | REGINA CLARK , paternal step-grandmother, is petitioner. | | OFF CALENDAR. Request for Dismissal entered on 9/27/13. General hearing remains set for 12/2/13. | |
| Cont. from | | Father: DANIEL RAY CLARK | | | |
| | Aff.Sub.Wit. | | | | |
| ✓ | Verified | | Mother: SHERRIE BOLECH | 1. Need Notice of Hearing. | |
| | Inventory | | Paternal grandfather: Daniel Clark – consents and waives notice. | 2. Need proof of personal service of the Notice of Hearing along with a copy of the temporary Petition or Consent and Waiver of Notice or Declaration of Due Diligence on: | |
| | PTC | | Paternal grandmother: Shirley Stairs | a. Daniel Ray Clark (father) | |
| | Not.Cred. | | Maternal grandfather: Billy Abraugh | b. Sherrie Bolech (mother) | |
| | Notice of Hrg | X | Maternal grandmother: Not listed. | 3. Confidential Guardian Screening form is incomplete. Several questions were had a yes answer without explanation as required. | |
| | Aff.Mail | X | | 4. Petition indicates the child is an Indian child and therefore Petitioner will need to fill out and return the Notice of Child Custody Proceeding for Indian Child (Form ICWA-030) . A blank form is in the file for Petitioner, if needed. | |
| | Aff.Pub. | | Petitioner states her stepson came to her home with the baby on 7/16/13 saying he wanted to get off drugs and give his daughter a better life. During that time he was off drugs and doing good. On 8/9/13 he left with the baby and went back to the mother. He is back on drugs. Petitioner states last week her son and the father had to go get the baby out of a drug dealer's house. The mother was there with her. | | |
| | Sp.Ntc. | | | | |
| | Pers.Serv. | | | | |
| ✓ | Conf. Screen | | | | |
| ✓ | Letters | | | | |
| ✓ | Duties/Supp | | | | |
| | Objections | | | | |
| | Video Receipt | | | | |
| | CI Report | | | | |
| | 9202 | | | | |
| ✓ | Order | | | | |
| | Aff. Posting | | | Reviewed by: KT | |
| | Status Rpt | | | Reviewed on: 9/25/13 | |
| ✓ | UCCJEA | | | Updates: | |
| | Citation | | | Recommendation: | |
| | FTB Notice | | | File 19 – Bolech & Abraugh | |

Atty Roberts, Gregory J., of Barrus and Roberts (for Petitioner Shirley D. Arthur)

**Petition to Establish Fact, Time and Place of Death
(Health & Safety Code 103450 – 103490)**

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|-------------------------------------|----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| DOD: undetermined | | SHIRLEY D. ARTHUR , spouse, is Petitioner. | NEEDS/PROBLEMS/COMMENTS: |
| | | | |
| Cont. from | | Petitioner states she is beneficially interested in establishing the fact of death for the following reasons: Petitioner has an interest in and desires to transfer title to assets held in the name of JAMES A. ARTHUR and/or JAMES A. ARTHUR and SHIRLEY D. ARTHUR , and to collect pension and life insurance benefits payable on the death of JAMES A. ARTHUR . | Note: The Health and Safety Code does not prescribe notice for this type of petition; Court records do not show notice has been served to any potentially interested persons. |
| <input type="checkbox"/> | Aff.Sub.Wit. | | |
| <input checked="" type="checkbox"/> | Verified | Petitioner requests the Court establish in accordance with Probate Code § 12401 the fact that Decedent died on 7/29/2013 at 11:00 P.M. in Iron Lake, Madera County High Country , which is exactly 5 years from the date of Decedent's disappearance, based upon the following, as stated in the <i>Declaration in Support of Petition</i> filed on 9/18/2013: | |
| <input type="checkbox"/> | Inventory | | |
| <input type="checkbox"/> | PTC | <ul style="list-style-type: none"> On 7/29/2008, Decedent left his home located on Audubon Drive in Fresno at about 8:30 a.m., alone, indicating that he was going to Star Lakes, in the Madera County High Country, and then on to Big Sandy Campground for lunch; Decedent has not been seen or heard from since that day; Incident Reports of Madera County Sheriff's Department (<i>copies of voluminous reports attached</i>) from 7/29/2008, continuing through 10/14/2009, describe in detail the Sheriff's Department searches conducted during this period for Decedent, and the investigations into his disappearance; Decedent's vehicle was located on 7/29/2008 in the Iron Lake parking area by law enforcement agents; although Decedent was seen by and talked with certain witnesses on the date of his disappearance, when interviewed by law enforcement agents searching for Decedent, the information provided by these witnesses did not lead to the discovery of Decedent or his remains; Decedent has not been seen or heard from by those who are likely to have seen or heard from him since the morning of 7/29/2008; Decedent's body was never found and no clues were ever discovered which revealed the circumstances of Decedent's disappearance. It has now been more than 5 years since Decedent disappeared without a trace, and Petitioner requests that the Court issue its Order Establishing Fact of Death decreeing pursuant to Probate Code § 12401 that Decedent died on 7/29/2013 at 11:00 p.m., which date is exactly 5 years from the date of Decedent's disappearance, and that Decedent died at Iron Lake, Madera High Country, Madera County, California. | |
| <input type="checkbox"/> | Not.Cred. | | |
| <input type="checkbox"/> | Notice of Hrg | | |
| <input type="checkbox"/> | Aff.Mail | | |
| <input type="checkbox"/> | Aff.Pub. | | |
| <input type="checkbox"/> | Sp.Ntc. | | |
| <input type="checkbox"/> | Pers.Serv. | | |
| <input type="checkbox"/> | Conf. Screen | | |
| <input type="checkbox"/> | Letters | | |
| <input type="checkbox"/> | Duties/S | | |
| <input type="checkbox"/> | Objections | | |
| <input type="checkbox"/> | Video Receipt | | |
| <input type="checkbox"/> | CI Report | | |
| <input type="checkbox"/> | 9202 | | |
| <input checked="" type="checkbox"/> | Order | | |
| <input type="checkbox"/> | Aff. Posting | | |
| <input type="checkbox"/> | Status Rpt | | |
| <input type="checkbox"/> | UCCJEA | | |
| <input type="checkbox"/> | Citation | | |
| <input type="checkbox"/> | FTB Notice | | |
| | | Reviewed by: LEG | |
| | | Reviewed on: 9/27/13 | |
| | | Updates: | |
| | | Recommendation: | |
| | | File 20 – Arthur | |

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|----------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| DOD: 7-9-10 | LYNETTE LUCILLE DUSTON and WARREN LESLIE DAVIS , Daughter and Son of the Decedent, are Petitioners. | NEEDS/PROBLEMS/COMMENTS: |
| | On 10-18-10, Decedent's Will dated 12-7-04 was admitted to probate and MARY M. DAVIS , Surviving Spouse, was appointed Executor with Full IAEA without bond on 10-18-10. Letters issued on 10-19-10. | Continued from <ul style="list-style-type: none"> • 1-22-13 • 3-8-13 • 5-10-13 • 6-28-13 • 7-29-13 |
| Cont. from 012213, 030813, 051013, 062813, 072913 | Petitioners state more than 18 months have elapsed since Letters were issued and Mary has neither filed an account nor report of status of administration. Petitioners object to the continuation of Mary as the personal representative and seek to remove her as executor for the following reasons: | Note: Page 4B is Mary M. Davis' First and Final Account and Report of Executor and Petition For Its Settlement; For Allowance of Ordinary Executor Commissions, Ordinary and Extraordinary Attorneys' Fees and For Final Distribution filed 6-14-13. |
| <input type="checkbox"/> Aff.Sub.Wit. | <ul style="list-style-type: none"> • §8502(c). Mary has wrongfully neglected the estate, or has long neglected to perform any act as personal representative. | Note: This matter is also set for Settlement Conference at 10:30 on 7-29-13 and set for Court Trial at 10:00 on 8-2-13. |
| <input checked="" type="checkbox"/> Verified | On 3-17-11, a substitution of attorney was filed in the proceeding. From that date until the original petition for removal was filed on 6-26-12, there had been no court action taken in this matter. Since then, the only action taken was to file another substitution of attorney and oppose the petition for removal. | Reviewed by: skc |
| <input type="checkbox"/> Inventory | <ul style="list-style-type: none"> • §8804(b). Mary has failed to file an inventory and appraisal within the prescribed time. | Reviewed on: 9-27-13 |
| <input type="checkbox"/> PTC | <ul style="list-style-type: none"> • §12200. Mary has failed to render a report of the status of the administration. | Updates: |
| <input type="checkbox"/> Not.Cred. | <ul style="list-style-type: none"> • §8502(a). Mary has wasted, embezzled, mismanaged, and committed a fraud on the estate. Mary has, <i>inter alia</i>, admitted during a deposition that she had liquidated assets of the Decedent's estate which were specific bequests to one of the Petitioners to pay for her attorneys' fees and costs in her two civil actions against Petitioners. | Recommendation: |
| <input checked="" type="checkbox"/> Notice of Hrg | <ul style="list-style-type: none"> • §8502(b). Mary is incapable of properly executing the duties of her office, or is otherwise not qualified for appointment as personal representative. Mary is 86 years old and has made claims for elder abuse in a lawsuit she filed against one of the Petitioners and has made representations that she is susceptible to undue influence. | File 1A - Davis |
| <input checked="" type="checkbox"/> Aff.Mail w | Petitioners cite authority in addition to the statutory references above regarding the Court's power to remove a personal representative for other cause, for example, adverse interest or hostile acts, and state removal of Mary as executor is necessary to protect the Decedent's estate and its heirs. | |
| <input type="checkbox"/> Aff.Pub. | <u>SEE ADDITIONAL PAGES</u> | |
| <input type="checkbox"/> Sp.Ntc. | | |
| <input type="checkbox"/> Pers.Serv. | | |
| <input type="checkbox"/> Conf. Screen | | |
| <input type="checkbox"/> Letters | | |
| <input type="checkbox"/> Duties/Supp | | |
| <input type="checkbox"/> Objections | | |
| <input type="checkbox"/> Video Receipt | | |
| <input type="checkbox"/> CI Report | | |
| <input type="checkbox"/> 9202 | | |
| <input type="checkbox"/> Order | | |
| <input type="checkbox"/> Aff. Posting | | |
| <input type="checkbox"/> Status Rpt | | |
| <input type="checkbox"/> UCCJEA | | |
| <input type="checkbox"/> Citation | | |
| <input type="checkbox"/> FTB Notice | | |

Page 2

Petitioners state it is also proper for this Court to order Mary to account which shall include both a financial statement and report of administration of the estate, and specifically show the condition of the estate. Furthermore, it is proper for the Court to reduce compensation of Mary and her attorneys by an appropriate amount.

Petitioners state they are entitled to appointment as personal representatives of the estate because they were nominated as successor co-executors in the event Mary shall for any reason fail to qualify or cease to act as executor.

It is hereby requested that this Court appoint Petitioners as successor co-executors to serve without bond and with full IAEA.

Petitioners pray as follows:

1. That citation issue to Mary M. Davis to show cause why she should not be removed as personal representative;
2. The Court forthwith suspend the powers of Mary M. Davis as personal representative and revoke the Letters issued 10-18-10;
3. For an order to appoint Petitioners as personal representatives with Full IAEA without bond;
4. For an order that Mary M. Davis file an account of the administration in accordance with Probate Code § 10900 and specify a reasonable time within which the account must be filed, which Petitioners suggest should be no later than 60 days from the date of her removal;
5. For an order that Mary M. Davis surrender all property in her possession belonging to the estate of the Decedent to the duly appointed and qualified successor co-executors;
6. For attorney's fees and costs of suit incurred herein; and
7. For such other orders and further relief as the Court deems just and proper.

SEE ADDITIONAL PAGES

Mary M. Davis' Fourth Report of Status of Administration of Estate filed 5-6-13 states: The Final I&A was filed concurrently with this status report. Executor has retained Robert L. Sullivan of McCormick Barstow to associate in as co-counsel with Farley Law Firm to assist with the filing and account and any final matters to close the estate.

Since the last status hearing, two new issues requiring the Court's assistance have emerged:

1. **Deposition:** In the recently settled partnership litigation against Executor, Executor was subjected to a grueling deposition by Petitioners' counsel, Dias Law Firm. As such, the anticipation of another deposition has been the source of anxiety and stress to the Executor.

Although Executor and counsel do not contest Petitioners' right to depose Executor, in an effort to shield Executor from improper and unnecessary stress and inquiries, counsel has sought to narrow the parameters of the deposition, without success. Correspondence attached.

Contrary to Petitioners' assertions that Executor is seeking to avoid her deposition, Executor seeks to narrow the scope of her deposition to disallow Peittioners' fishing expedition and inquiries that are irrelevant and premature. The Executor's deposition after the filing of an account and report, barring inquiries into incompetency and those matters better directed to the accountant, would serve to effectuate a more orderly, productive, and cost effective deposition. Executor respectfully requests the Court's determination accordingly.

2. **Antiques:** I&A Partial #2 filed 2-13-13 includes Decedent's one-half community property interest in an antique table and chair and other furniture, furnishings and personal effects for a total of \$15,000 (\$7,500 to Decedent's interest). Petitioner contend that the I&A does not adequately describe and account for these items. After correspondence, and although Executor believes the I&A adequately includes these items, Executor is in the process of retaining the services of an appraiser to inventory and appraise the antiques, which is expected the last week of June 2013. Therefore, until the Supplemental I&A can be submitted to the Probate Referee and appraisal is complete, a final account cannot be filed.

Executor therefore respectfully states that good cause exists to:

- 1) Extend the time to file an account to a date after receipt of the Supplemental I&A;
- 2) Disallow inquiries at Executor's deposition regarding, seeking to determine, and otherwise addressing, mentioning, or referring to the Executor's competency, pending further order of the Court;
- 3) Disallow inquiries regarding the legal services rendered to the Executor pending further order of the Court; and
- 4) The Executor's deposition is to be scheduled to a date after the filing of the account and report in this matter.

UPDATE: Page 1B is Mary M. Davis' Amended First and Final Account. Also on calendar is continued Settlement Conference. Examiner Notes are not provided for Settlement Conference.

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| DOD: 7-9-10 | | MARY M. DAVIS , Surviving Spouse and Executor with Full IAEA without bond, is Petitioner. | NEEDS/PROBLEMS/COMMENTS: <u>SEE ADDITIONAL PAGES</u> |
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| | Aff.Sub.Wit. | | |
| ✓ | Verified | | |
| ✓ | Inventory | | |
| ✓ | PTC | | |
| ✓ | Not.Cred. | | |
| ✓ | Notice of Hrg | | |
| ✓ | Aff.Mail | W | |
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| | Conf. Screen | | |
| | Letters | | |
| | Duties/Supp | | |
| | Objections | | |
| | Video Receipt | | |
| | CI Report | | |
| ✓ | 9202 | | |
| | Order | X | |
| | Aff. Posting | | |
| | Status Rpt | | |
| | UCC/JEA | | |
| | Citation | | |
| ✓ | FTB Notice | | |
| | | Account period: 7-10-10 through 6-30-13 Accounting: \$2,030,762.03 Beginning POH: \$1,909,404.65 Ending POH: \$1,909,287.65 consisting of: <ul style="list-style-type: none">• Decedent's 33.33% partnership interest in Whitney Oaks Dairy,• Decedent's 50% community property interest in various real and personal property,• cash in the amount of \$3,258.90• Unsecured Self-cancelling Installment Note to Fred and Mary Davis by Whitney Oaks Dairy (Decedent's 50% valued at \$808,496.50)• POH Fair Market Value is \$1,557,629.65 | |
| | | Liability: \$84,110.61 owing by the estate to Petitioner Mary M. Davis allocable to the estate with reference to the two litigated civil actions plus the ongoing petition to remove her as Executor filed by Lynette Duston and Warren Davis in this probate estate. Petitioner states the original petition reports advances of \$96,644.34 made by the Executor to the estate for attorneys' fees in the two separate litigations involving family members. It has since been discovered that the information provided to report amounts paid to Dowling Aaron was incorrect. Accordingly, Petitioner requests the Court's confirmation and approval of \$84,110.61 instead of \$96,644.34. | |
| | | Executor (Statutory): \$32,466.51 Attorney Robert Gin (Statutory): \$2,532.65 Attorneys Michael Farley and Robert L. Sullivan, Jr. (Statutory): \$29,933.86 Petitioner states that in light of the modifications to the I&A (Partial No. 2 – Corrected – Supplemental) the statutory executor commissions and attorneys' fees have been recalculated. Attorneys (Extraordinary): The original petition requested authority to pay \$5,412.00 to McCormick Barstow as reasonable compensation for extraordinary legal services rendered in the administration of the estate. Petitioner states that since the date of the original petition, additional extraordinary legal services have been rendered. A separate declaration will be filed. | Reviewed by: skc Reviewed on: 9-27-13 Updates: Recommendation: File 1C – Davis |
| | | SEE ADDITIONAL PAGES | |

Petitioner states: In response to the objections to the original account, the following modifications have been made:

- The accounting is updated through 7-30-13
- Receipts include a reimbursement to the estate of \$237.70, which represents the estate's portion of the monthly insurance premium paid after the date of the final performance of the settlement in the Cayucos litigation (12-4-12) through the end date of the original account (5-15-13)
- Schedule A-1 Advances to Estate by Executor has been amended as follows:
 - to reflect actual fees and costs incurred with Dowling Aaron in the Cayucos litigation and advanced by Mary on behalf of the estate;
 - The classification of payment to McCormick Barstow of \$2,100 has been modified to show the disbursement as being related to the estate's trust and partnership consultation;
 - Declaration of Michael L. Farley in support of request for extraordinary fees is filed;
 - Schedule A-1 is amended to include additional advances made by the Executor for costs of administration;

Note: Declaration of Michael L. Farley indicates fees of **\$19,747.25** in connection with the Cayucos litigation and **\$48,787.13** in connection with the petition to remove the executor.

- Disbursements now excludes a charge to the estate for insurance premiums to Cayucos property after 12-4-12;
- POH has been amended to include the estate's interest in additional furniture, furnishings and antiques, and the self-cancelling installment note, as described.

Petitioner prays for the relief prayed for in the original petition, as modified by the foregoing.

Note: Petitioner also filed Supplement to Reply to Objection on 9-11-13, which refers to Objections filed 7-8-13 in connection with the original accounting petition. However, pursuant to #1 below, that petition, including the objections thereto, are not currently before the Court, as this amended petition replaces and supersedes that petition. Therefore, Examiner has not reviewed this document. See file.

NEEDS/PROBLEMS/COMMENTS:

1. **Need clarification:** This petition was filed as an amended petition, which replaces and supersedes the original. Therefore, reference to the original petition, which is no longer before the Court, is not appropriate. The Court may require clarification of the prayer and proposed distribution, or may require complete amendment.
2. **Declaration of Michael L. Farley in support of extraordinary fees and costs does not appear to comply with applicable law, which requires itemization.** The Court may require clarification.
3. **Need proposed order.** See Local Rules.

Note: Examiner Notes from the hearing on the original petition on 7-29-13 were provided to the judge for reference. The original petition was filed 6-14-13 and is located in the "A" volume of the case file. (At this point, there are three volumes on 10CEPR00810: Main, A, and B.)